

1 Department of Labor and Industry
2 Board of Personnel Appeals
3 PO Box 6518
4 Helena, MT 59604-6518
5 (406) 444-2718
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7

8 STATE OF MONTANA
9 BEFORE THE BOARD OF PERSONNEL APPEALS

10
11 IN THE MATTER OF THE UNFAIR LABOR PRACTICE CHARGE NO. 7-2009

12			
13	SUSAN L. ASHLEY,)	
14)	
15	Complainant,)	INVESTIGATIVE REPORT
16	-vs-)	AND
17)	NOTICE OF INTENT TO DISMISS
18	HARLOWTON EDUCATION)	
19	ASSOCIATION, MEA-MFT and SCOTT)	
20	MCCULLOCH, MEA-MFT FIELD)	
21	CONSULTANT,)	
22)	
23	Defendants.		

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25 * * * * *

26 **I. INTRODUCTION**

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28 On October 2, 2008, Susan L. Ashley, filed an unfair labor practice charge with the
29 Board of Personnel Appeals alleging a violation of 39-31-402(1) MCA. The complainant
30 named Scot (sic) McCulloch, affiliated with the Montana Education Association-Montana
31 Federation of Teachers, hereafter MEA-MFT, as the defendants. Ms. Ashley is
32 appearing *pro se* and contends she was not fairly represented by MEA-MFT and Mr.
33 McCulloch. The complaint was served upon Eric Feaver, MEA-MFT President.
34 Richard Larson, Attorney at Law, responded on behalf of the defendants, including the
35 Harlowton Education Association. On behalf of the defendants Mr. Larson denied any
36 violation of Montana law.
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39 John Andrew was assigned to investigate the charge, has reviewed the submissions of
40 the parties and has communicated with the parties in the course of investigating the
41 charge.
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43 **II. FINDINGS AND DISCUSSION**

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45 The Board of Personnel Appeals has jurisdiction over this matter.
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48 The collective bargaining agreement that Ms. Ashley contends was violated is between
49 the Harlowton Education Association, hereafter HEA, and Harlowton School District 16,
50 hereafter HSD. The HEA is affiliated with the MEA-MFT. Mr. McCulloch is a consultant

1 with MEA-MFT and upon request of the HEA provides assistance to the local affiliate.
2 In discussing this matter with Mr. Larson and Ms. Ashley, both are satisfied that as
3 reflected in this investigative report the correct defendants be named as the HEA and
4 Mr. McCulloch.
5

6 The above stated, on October 7, 2008, as well as October 21, 2008, the investigator
7 discussed this matter extensively with Ms. Ashley. Ms. Ashley indicated she had no
8 additional information to submit to the investigator beyond what was submitted with the
9 initial complaint. The investigator advised Ms. Ashley that absent further proof there
10 appeared to be no merit to her complaint. In response Ms. Ashley requested additional
11 time to consider whether she wished to continue to pursue her complaint. In further
12 follow up with Ms. Ashley the investigator asked that she confirm her intentions. By e-
13 mail of November 6, 2008, Ms. Ashley confirmed that she wished to drop the case.
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16 **III. Recommended Order**

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18 Based on the foregoing it is recommended that unfair labor practice charge 7-2009 be
19 dismissed.
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21 DATED this 12th day of November 2008.
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23

24
25 BOARD OF PERSONNEL APPEALS
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29 By: _____
30 John Andrew
31 Investigator
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35 NOTICE

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37 Pursuant to 39-31-405 (2) MCA, if a finding of no probable merit is made by an agent of
38 the Board a Notice of Intent to Dismiss is to be issued. The Notice of Intent to Dismiss
39 may be appealed to the Board. The appeal must be in writing and must be made within
40 10 days of receipt of the Notice of Intent to Dismiss. The appeal is to be filed with the
41 Board at P.O. Box 6518, Helena, MT 59604-6518. If an appeal is not filed the decision
42 to dismiss becomes a final order of the Board.
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CERTIFICATE OF MAILING

I, _____, do hereby certify that a true and correct copy of this document was mailed to the following on the _____ day of November 2008 postage paid and addressed as follows:

SUSAN ASHLEY
PO BOX 234
HARLOWTON MT 59036

SCOTT MCCULLOCH
510 NORTH 29TH
BILLINGS MT 59101

RICHARD LARSON
ATTORNEY AT LAW
PO BOX 1152
HELENA MT 59624 1152